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RUEHNE/AMEMBASSY NEW DELHI 2187
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SENSITIVE
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STATE FOR SCA/INS AND DRL/IL FOR TU DANG
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DOL/ILAB FOR TINA MCCARTER
MCC FOR S GROFF, D NASSIRY AND E BURKE

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SUBJECT: MALDIVES: EMPLOYMENT BILL RATIFIED AMID CONCERNS

¶11. (U) Summary: The President of Maldives recently ratified an employment bill which sets new rights and responsibilities for workers including a minimum wage, a limit on weekly working hours, and the establishment of an institution to resolve employment-related disputes. The legislation was criticized by the Ministry of Employment and local industry bodies for exempting workers at resorts. Industry leaders argue that the new laws are too broad to appropriately apply to each industry and that the new administrative procedures will adversely impact small to medium enterprises. The Ministry and industry bodies are separately creating proposals to reflect these concerns. Meanwhile, government efforts are underway to inform the public of new legislation and to establish three new labor-related authorities within two months of July 11, the date the bill came into force. The government plans to join the International Labor Organization (ILO) by end 2008. End summary.

NEW WORKER RIGHTS

¶12. (U) The Maldives employment bill passed a parliamentary vote in April 2008, was ratified by the President on May 26, and came into effect on July 11. The bill was drafted based on principles of the International Labor Organization (ILO), which Maldives reports it intends to join by end 2008. As the country's first comprehensive employee rights package, the legislation brings local and expatriate workers under one law and consolidates industrial regulations. Salient features of the bill include: a ban on forced labor and discrimination; minimum age for employment set at 16; a maximum 48-hour work week with entitled leave; a minimum wage; a code to discipline and dismiss employees; regulations on employee contracts; a workplace ethics code; and a review of employment agencies. (Note: To date, the final legislation has not been officially translated into English from Dhivehi; however, unofficial English translations were created by and for industry representatives.)

¶13. (U) The legislation also establishes a labor relations authority, a labor tribunal, and a minimum wage board. The Minister of Employment is responsible for setting up each of these groups and will determine its organization, rules, operation, procedures, and membership. Once established, however, the labor relations authority and tribunal will be independent from the Ministry, and the board will report directly to the Minister of Employment on an ad-hoc basis. The seven-member labor tribunal will mediate and resolve disputes between employer and employees in the public sector and across all industries (except resorts) in the private sector.

The President of Maldives appoints the chairman of the tribunal. The ten-member labor relations authority will enforce the law and labor regulations. A three-member wage board, appointed by the President, will advise the employment minister on setting minimum wage rates per industry. The Ministry hopes these respective groups will be established by early September.

AWARENESS CAMPAIGNS

¶4. (U) The Ministry is engaged with local media to promote the new rights and responsibilities accorded to all workers. Outreach to the public began before the bill was ratified, and has since increased. The Ministry encouraged employees to form industry-related associations so that it can reach more workers via targeted outreach seminars.

PRESIDENT WELCOMES AMENDMENTS DESPITE CONCERNs

¶5. (U) The People's Majlis (parliament) passed the employment bill with eleven amendments to the original document. There were initially 46 amendments proposed; members of parliament agreed to continue discussing the remaining 35 following the bill's passage. According to local reporting, President Gayoom, acknowledging the bill's shortfalls, stated that he ratified a bill that necessitates amendments because he believed that a problematic bill is better than none. Gayoom also said he welcomed future amendments and proposals by industry bodies.

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NOT FAR ENOUGH: RESORT WORKERS OVERLOOKED

¶6. (U) Although most of the eleven amendments passed were minor and editorial in nature, the last-minute exclusion of resort workers from certain basic rights - including maximum working hours and time slots for meal, prayers, and breaks -- caused a great deal of controversy. The legislation already exempted people working in emergency services, seagoing vessels and aircraft, seaports and airports, industrial islands and executive posts from these requirements. A legal officer from the Ministry of Employment explained that these workers (with the exception of executives) are covered by international conventions that Maldives recognizes.

¶7. (U) To date, there has been no official explanation as to why the Majlis extended the exemption to resort staff. However, several members of Parliament are owners or part-owners of resorts, which may explain the exemption. The action drew extreme criticism from some MPs. Workers at the 90+ tourist resorts in Maldives represent the largest economic sector in the economy (as a portion of GDP). One local paper quoted Minister of Information Mohamed Nasheed saying that the exemption was "necessary in order to allow the industry to prosper, and that employment packages were 'different' at resorts as each hotel maintains their own contractual agreements with their employees, which are not regulated by the government. The Ministries of Employment and Legal Reform submitted an amendment to overturn this provision on July 17.

TOO FAR: INDUSTRY CONCERNED ABOUT IMPACT

¶8. (U) Numerous industry bodies, including Maldives National Chamber of Commerce and Industry, Maldives Association of Tourism Industry, and Maldives Association of Construction Industry, are working together to propose changes to the legislation out of concern it will adversely impact local businesses. Industry contends that the new laws fail to distinguish different scales of enterprises within the employment market, that they are too broad (i.e., "impractical and archaic"), and not specific enough to each industry. Industry leaders argue that the legislation favors employees and does not take into consideration the general rights of the employers. For example, industry representatives contend that the eight hour work day with required overtime pay will be a problem in the construction

field, where tasks require 14 straight hours to complete. Industry seeks a "friendly and flexible" set of revisions that would provide greater discretion to employers and employees to set the conditions of their contractual agreements, including labor grievances, number of maximum hours, and leave allowance.

¶9. (U) Industry leaders also claim that the new laws will adversely impact small to medium scale enterprises which do not have the resources to handle the new administrative requirements required for labor disputes or the maintenance and provision of employment and salary records. Industry also wants participation by its representatives on the new labor tribunal, minimum wage board, and labor relations authority.

COMMENT

¶10. (SBU) Although more work is needed to ensure both implementation and compliance with international labor standards, the passage of Maldives' first comprehensive employment legislation is a positive step. (While the law does not provide for certain basic workers' rights promoted by the ILO such as freedom of association and the right to organize and bargain collectively, these are addressed in Maldives' new constitution, which is pending ratification.) Maldives stated desire - as noted publically by the Foreign Ministry and Attorney General - to join the ILO in 2008 is also encouraging. The ILO Director in Sri Lanka told EconOff that she is confident that Maldives will achieve ILO membership by end of the year. In late June, Maldives' Acting Minister of Employment participated at the International Labor Conference in Geneva and met with the Director General of ILO. Maldives will also be participating in several ILO-sponsored conferences in Sri Lanka this year.

¶11. (U) The Ministry has welcomed the proposed labor law seminar

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sponsored by the American Center for International Labor Solidarity and funded by DRL, and requested that all Maldives stake holders participate, including workers associations, employers associations, the media, the Human Rights Commission, the Civil Service Commission, Maldives Police Service, representatives from the major employers, the Presidents Office, the Ministry of Justice, the Civil Court, and the High Court. Post will coordinate with DRL and ACILS on seminar organization.